Supreme Court, U. S.
FILED
NOV 16 1978
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 77-1644

UNITED STATES OF AMERICA,
Petitioner,

—*v.*—

ZAC A. CRITTENDEN, JR.,
d/b/a CRITTENDEN TRACTOR COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED MAY 18, 1978
CERTIORARI GRANTED OCTOBER 2, 1978

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 77-1644

UNITED STATES OF AMERICA,

Petitioner,

—*v.*—

ZAC A. CRITTENDEN, JR.,
d/b/a CRITTENDEN TRACTOR COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

INDEX

	Page
Relevant docket entries	1
Complaint	4
Exhibits to the Complaint:	
Ex. A: Security Agreement dated February 2, 1972	7
Ex. B: Financing Statement dated February 2, 1972 (File No. 6897)	11
Ex. C: Financing Statement dated February 2, 1972 (File No. 7020)	12
Defenses of Zac A. Crittenden, Jr.	13
Motion of Defendant for Summary Judgment	16
Affidavit of Zac A. Crittenden, Jr., with attached exhibits	17
Plaintiff's interrogatories to defendant	27
Defendant's Answers to Interrogatories	29
District Court Judgment	31
Order granting certiorari	32
The following additional items are contained in the appendix to the petition for a writ of certiorari and they need not be reprinted	
Opinion of the court of appeals	1a

	Page
Judgment of the court of appeals	37a
Notice that the petition for rehearing and rehearing *en banc* was denied	39a
Memorandum and order of the district court	40a

1

UNITED STATES DISTRICT COURT

Docket No. 75-0037

UNITED STATES OF AMERICA

v.

CRITTENDEN, ZAC A., JR. d/b/a
CRITTENDEN TRACTOR COMPANY

28 USC 1345—To recover collateral against which U.S. has lien.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
1975	
5/1	Filed complaint and issued summons, copy mailed to U.S. Marshal, Macon, Ga. for service on Deft.
5/1	J.S. 5, initial report filed.
5/20	Filed Defenses of Zac A. Crittenden, Jr. d/b/a Crittenden Tractor Company, cert. of serv. thereon. (Deft. demands trial by jury.)
5/23	Received return of service of U.S. Marshal, Zac A. Crittenden was served on 5/8/75.
7-8	Filed Notice of Motion for Summary Judgment, by Defendant.
7-8	Filed Motion for Summary Judgment by defendant.
7-8	Received Brief in support of Motion for Summary Judgment by defendant.
7/22	Received Plaintiff's Brief in response to Defendant's Motion for Dismissal, cert. of serv. thereon.
7-24	Filed Plaintiffs Interrogatories to Defendant.
9-2	Received Defendant's Reply Brief.

DATE	PROCEEDINGS

9-2 Filed Defendant's Answers to Interrogatories.

9-25 Filed Memorandum and Order on Defendant's Motion for Summary Judgment, granting said motion.

9-25 Filed Judgment in accordance with Order of the Court. Civ. Order p. 553.

9-25 Judgment entered. (Copies mailed to Attorneys for parties).

9-25 Prepared J. S. 6.

11/21 Filed Notice of Appeal by U.S. Attorney. (copy mailed to all counsel of record and copy to CCA5.

11/21 File mailed to Clerk, U.S. District Court, Macon, Ga.

12/16 Record on Appeal forwarded to CCA-5.

1978

2-21 Filed Judgment issued as mandate of CCA 5 Affirming in Part and Reversing in part the Judgment of the District Court and Order of J. Elliott thereon making the mandate the judgment of the District Court. REMANDED TO DISTRICT COURT.

2-21 CASE RE-OPENED.

2-21 Prepared J. S. 5.

5/18 Filed Motion for Leave to Sell.

5/18 Filed Order of Judge Elliott allowing the sale of the Allis-Chalmers Diesel 21 tractor to Alston Bros. Farm, Inc. for $1,525.00.

DOCKET

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 75-4174

Date Docketed 11-25-75

Date Notice of Appeal Filed 11-21-75

[Caption Omitted]

1-19-76 Brief for Appellant (P-T) 1-26-76(P)

2-5-76 Brief for Appellee (M)

3-3-77 Supp. Brief for Appellant (T) (J)

3-2-77 Supp. Brief for Appellee (T) (J)

4-6-77 Case Argued ILG-GBT-WYATT

11-21-77 Affd. in Pt. & Reversed in Pt. ILG

1-9-78 Petition for Rehearing, Appellant, En Banc

2-6-78 Order Denying Rehearing (en banc)

1/27/76 Flg. Letter of Appellant dated 1-26-76 confirming telephone conversation wherein he was allowed to proceed on Orig. Record and 2 xerox copies (GG)

Feb. 14, 1978 Jdgt. as Mdt. Issd. to Clerk

IN THE
DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Civil No. 75-37-Col.

[Filed at 8:30 A.M., May 1, 1975]

UNITED STATES OF AMERICA, PLAINTIFF

vs.

ZAC A. CRITTENDEN, JR.
doing business as CRITTENDEN TRACTOR COMPANY

COMPLAINT

The United States of America, plaintiff, by its attorney, Ronald T. Knight, United States Attorney for the Middle District of Georgia, acting under the direction of the Attorney General of the United States, alleges:

1. This is a suit of a civil nature brought by the United States of America, and jurisdiction of the Court is invoked under the provisions of Section 1345, Title 28, United States Code.

2. Defendant, Zac A. Crittenden, Jr., is a resident of Randolph County, Georgia, within the jurisdiction of the Middle District of Georgia, and is doing business as Crittenden Tractor Company. Defendant's mailing address is Shellman, Georgia 31786.

3. Plaintiff, acting through Farmers Home Administration, U.S. Department of Agriculture, did make to Ralph B. Bridges of Terrell County, Georgia the following listed operating loans:

Date of Promissory Note	Principal Sum of Loan
1. November 27, 1970	$12,880.00
2. August 20, 1971	1,600.00
3. February 2, 1972	21,900.00

4. On December 22, 1970 to secure the first loan described in paragraph 3 and any additional loans, advances to him and/or expenditures, Mr. Bridges executed a security agreement granting to plaintiff a security interest in his crops and farm equipment. This security interest was perfected by the filing of a financing statement in the office of the Clerk of Superior Court for both Terrell County (File No. 6148) and Randolph County (File No. 6529).

5. Because of changes in collateral on February 2, 1972, the said Ralph B. Bridges did execute to plaintiff a second security agreement granting a security interest in his crops and farm equipment. This security interest was perfected by the filing of a financing statement in the office of the Clerk of Superior Court for both Terrell County (File No. 6897) and Randolph County (File No. 7020). A copy of this security agreement and a copy of the secured party's copy of each financing statement are attached hereto as Exhibits A, B and C and are made a part of this paragraph by reference.

6. Included in the farm equipment listed in the security agreement described in paragraph 5 is an Allis Chalmers, Diesel 21 tractor with a serial No. 2417 which has an estimated value of approximately $5,000.00.

7. Notwithstanding the security interest in this tractor which is a first and prior interest in this tractor, the defendant did on or about March 14, 1974 have the Sheriff of Randolph County levy on the said tractor and defendant did take possession of this tractor and to the best of plaintiff's knowledge said defendant continues to be in posssesion of the tractor.

8. Plaintiff had no knowledge of this levy nor was it given any notice of any claim or lien asserted by said defendant.

9. Plaintiff learned of the levy when the said Ralph B. Bridges did file his petition in bankruptcy in the United States District Court for the Middle District of Georgia, Americus Division, and an attempt was made by plaintiff to locate its collateral.

10. Plaintiff is entitled to immediate possession of the said tractor because Mr. Bridges has defaulted under the

terms of the loan instruments by allowing defendant to levy against the tractor and also because of his filing a petition in bankruptcy. The unpaid balance on Mr. Bridges' loan accounts presently is in excess of the value of the said tractor.

11. Demand has been made on defendant by plaintiff to turn over the tractor to the plaintiff but defendant has failed and refused to release the tractor to the plaintiff.

WHEREFORE, plaintiff demands judgment against the defendant and prays that the Court direct the defendant to either turn over the said tractor to plaintiff or in the alternative should he no longer have possession of the tractor to pay the plaintiff the value of said tractor, plus interest. In addition, plaintiff prays that defendant be directed to pay the costs of this action.

RONALD T. KNIGHT
United States Attorney

By _____
Assistant United States Attorney

Position 1

USDA–FHA
Form FHA 440–4
(Rev. 1–1–72)

SECURITY AGREEMENT

(CHATTELS AND CROPS)

EXHIBIT A

I. THIS SECURITY AGREEMENT is made between the United States of America acting through the Farmers Home Administration (herein called Secured Party) and Ralph B. Bridges

and _____ (herein called Debtor), whose mailing address is Dawson, Ga. Rt 3 31742

II. WHEREAS Debtor is justly indebted to Secured Party as evidenced by one or more certain promissory note(s) or other instrument(s), herein called "note" (if more than one note is described below, the word "note" as used herein shall be construed as referring to each note singly or all notes collectively, as the context may require), said note being executed by Debtor, being payable to the order of Secured Party in installments as specified therein, authorizing acceleration of the entire indebtedness at the option of Secured Party upon any default by Debtor, and being further described as follows:

Date	Principal Amount	Last Installment Due
8-20- 19 71	$ 1600.00	11-1 19 74
Feb. 2 19 72	$ 21,900.00	2-2 19 73
19	$	19
19	$	19
19	$	19
19	$	19
19	$	19

And the note evidences a loan to Debtor, and Secured Party, at any time, may assign the note and insure the payment thereof to any extent authorized by the Consolidated Farmers Home Administration Act of 1961;

And if payment of the note is insured by Secured Party, Secured Party may retain the right to a specified portion of the payments on the note;

And a condition of the insurance of payment of the note will be that the holder will forego his rights and remedies against Debtor and any others in connection with the loan evidenced thereby, as well as any benefit of this instrument, and will accept the benefits of such insurance in lieu thereof, and upon Secured Party's request will assign the note to Secured Party;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by Secured Party, or in the event Secured Party should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity security agreement to secure Secured Party against loss under its insurance contract by reason of any default by Debtor;

NOW, THEREFORE, in consideration of said loan(s) and (a) at all times when the note is held by Secured Party, or in the event Secured Party should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, and any additional loans to Debtor heretofore or hereafter made or insured by Secured Party under the then existing provisions of Subtitle B or C of the foregoing statute, (b) at all times when the note is held by an insured holder, to secure performance of Debtor's agreement herein to indemnify and save harmless Secured Party against loss under its insurance contract by reason of any default by Debtor, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by Secured Party, with interest, as hereinafter described, and the performance of every covenant and agreement of Debtor contained herein or in any supplementary agreement:

DEBTOR HEREBY GRANTS to Secured Party a security interest in his interest in the following collateral, including the proceeds and products thereof:

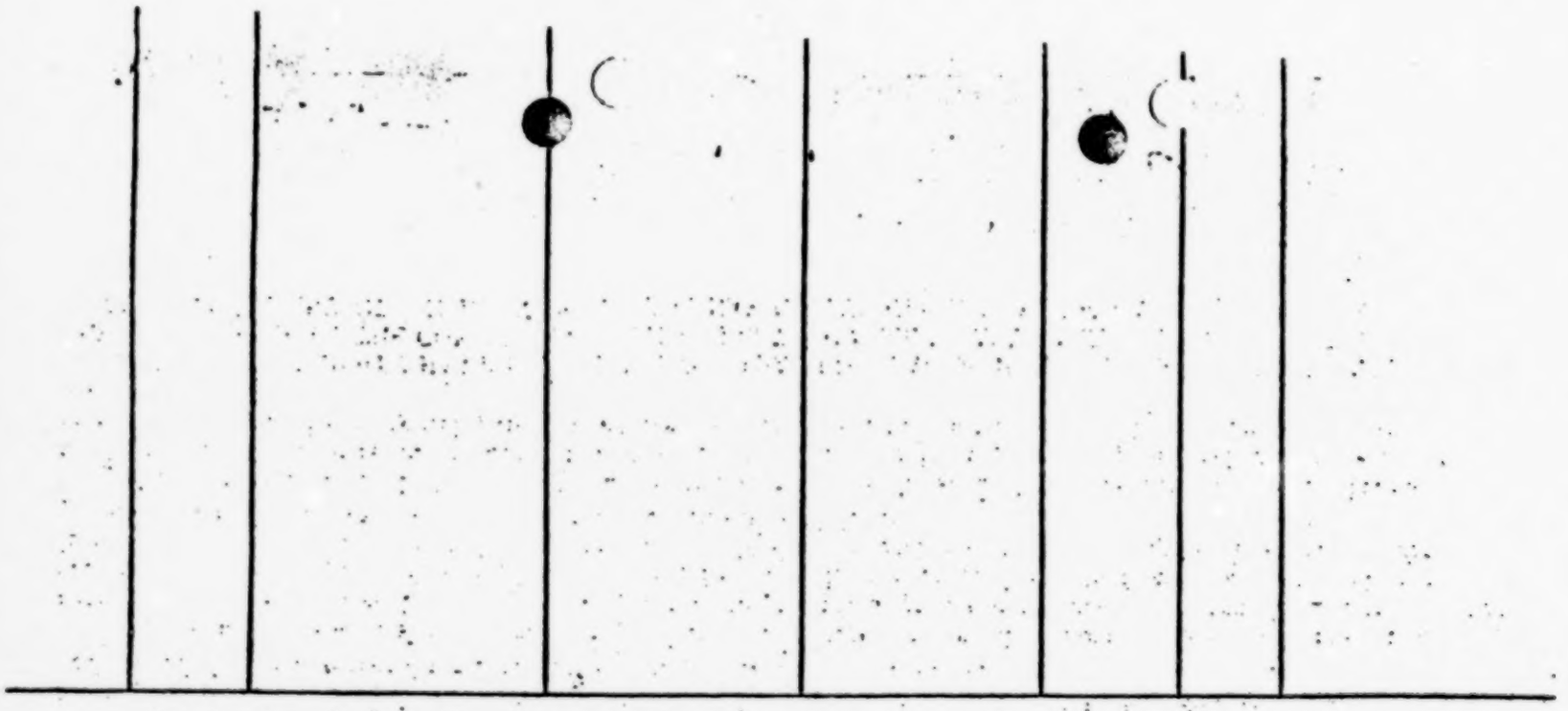
Item 1. All crops, annual and perennial, and other plant products now planted, growing or grown, or which are hereafter planted or otherwise become growing crops or other plant products (a) within the one-year period or any longer period of years permissible under State law, or (b) at any time hereafter if no fixed maximum period is prescribed by State law, on the following described real estate:

Farm(s) or Other Real Estate * *Owner*	*Approximate No. of Acres*	*County and State*	*Approximate Distance and Direction from a Named Town or other Description*
Earl Gill	20.3	Terrell, Georgia	7 mi NW of Dawson, Georgia
Wilbur Gamble and Bobby Locke	242.8	Randolph, Georgia	3½ mi S Cuthbert

* Owner shown in related Financing Statement, except if informed of ownership change show reputed new owner.

Item 2. All farm and other equipment (except small tools and small equipment unless described below), and inventory, now owned or hereafter acquired by Debtor, together with all replacements, substitutions, additions, and accessions thereto, including but not limited to the following:

Line No.	Quantity	Kind	Manufacturer	Size and type	Condition	Year of manufacture	Serial or motor No.
	1	tractor	Allis Chalmers	Deisel 21	good	1968	2417
	1	Combine	Lilliston		good	1965	218
	1	Bottom Plow	John Deere	3 bottom 16 "	good	415 A	
	1	Cultivator	John Deere	17 ft	good	1970 RR4	
	1	Plow	Glencol Chisils	9 ft	good	1970	
	1	mower	Lilliston	7 ft	good	unknown	
	1	drag Harrow		10 ft	good	unknown	
	2	Herbicide tanks		110 gal. stainless steel			
	1	harrow	John Deere	10 ft AW	good	unknown	
	1	tractor	David Brown	Model 990	good	1963 Sr 494684	
	1	Harrow	Taylor Way	14 ft model 20018	good	1971	83769



III. DEBTOR WARRANTS, COVENANTS, AND AGREES THAT:

A. Debtor is the absolute and exclusive owner of the above-described collateral, and any marks or brands used to describe livestock are the holding brands and carry the title, although the livestock may have other marks or brands, and such collateral is free from all liens, encumbrances, security and other interest except (1) any existing liens, encumbrances, security or other interests in favor of Secured Party which shall remain in full force and effect, (2) any applicable landlord's statutory liens, and (3) other liens, encumbrances, security or other interests, as follows:

Ford Motor Credit Co. F/S 5917 8-15-70 KMC 4 row PN Shaker Sr. 725 KMC Vine cutter Ins. Debt. 1589.79

and Debtor will defend the collateral against the claims and demands of all other persons. Reference to the above liens, encumbrances, security and other interests is for warranty purposes only and does not indicate their priority.

B. Statements contained in Debtor's loan application(s) are true and correct; and Debtor will (1) use the loan funds for the purposes for which they were or are advanced, (2) comply with such farm and home management plans as may be agreed upon from time to time by Debtor and Secured Party, (3) care for and maintain the collateral in a good and husbandlike manner, (4) insure the collateral in such amounts and manner as may be required by Secured Party, and if Debtor fails to do so, Secured Party, at its option, may procure such insurance, (5) permit Secured Party to inspect the collateral at any reasonable time, (6) not abandon the collateral or encumber, conceal, remove, sell or otherwise dispose of it or of any interest therein, or permit others to do so, without the prior written consent of Secured Party, and (7) not permit the collateral to be levied upon, injured or destroyed, or its value to be impaired, except by using harvested crops in amounts necessary to care for livestock covered hereby.

C. Debtor will pay promptly when due all (1) indebtedness evidenced by the note and any indebtedness to Secured Party secured hereby, (2) rents, taxes, insurance premiums, levies, assessments, liens, and other encumbrances, and costs of lien searches and maintenance and other charges now or hereafter attaching to, levied on, or otherwise pertaining to the collateral or this security interest, (3) filing or recording fees for instruments necessary to perfect, continue, service, or terminate this security interest, and (4) fees and other charges now or hereafter required by regulations of the Farmers Home Administration. At all times when the note is held by an insured holder, Debtor shall continue to make payments on the note to Secured Party, as collection agent for the holder.

D. If the note is insured by Secured Party, Debtor will indemnify and save harmless Secured Party against any loss by reason of any default by Debtor.

E. At all times when the note is held by an insured holder, any amount due and unpaid under the terms of the note to which the holder is entitled may be paid by Secured Party to the holder of the note for the account of Debtor. Any amount due and unpaid under the terms of the note, whether it is held by Secured Party or by an insured holder, may be credited by Secured Party on the note and thereupon shall constitute an advance by Secured Party for the account of Debtor. Any advance by Secured Party as described in this paragraph shall bear interest at the note rate from the date on which the amount of the advance was due to the date of payment to Secured Party, provided that Borrower shall be required to pay interest on only the principal portion of such advance unless otherwise provided in the regulations of the Farmers Home Administration.

F. Whether or not the note is insured by Secured Party, Secured Party may at any time pay any other amounts required herein to be paid by Debtor and not paid by him when due, including any costs and expenses for the preservation or protection of the collateral or this security interest, as advances for the account of Debtor. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

Position 1

6

G. All advances by Secured Party as described in this instrument, with interest thereon, shall become immediately due and payable by Debtor to Secured Party without demand at the place designated in the latest note executed by Debtor, and shall be secured hereby. No such advance by Secured Party shall relieve Debtor from breach of his covenant to pay. Any payment made by Debtor may be applied on the note or any indebtedness to Secured Party secured hereby, in any order Secured Party determines.

H. In order to secure or better secure the aforesaid obligations or indebtedness, Debtor will execute and deliver to Secured Party at any time, upon demand, such additional security instruments on such real and personal property as Secured Party may require.

IV. IT IS FURTHER AGREED THAT:

A. Until default Debtor may retain possession of the collateral.

B. Default shall exist hereunder if Debtor fails to perform or discharge any obligation or to pay promptly any indebtedness hereby secured or to observe or perform any covenants or agreements herein or in any supplementary agreement contained, or if any of Debtor's representations or warranties herein prove false or misleading, or upon the death, bankruptcy, insolvency or incompetency of Debtor or any person so called herein. Upon any such default:

1. Secured Party, at its option, with or without notice as permitted by law, may (a) declare the unpaid balance on the note and any indebtedness secured hereby immediately due and payable, (b) enter upon the premises and take possession of, cultivate and harvest crops, repair, improve, use, and operate the collateral or make equipment unusable, for the purpose of protecting or preserving the collateral or this lien, or preparing or processing the collateral for sale, and (c) exercise any sale or other rights accorded by law.

2. Debtor hereby (a) agrees to assemble the collateral and make it available to Secured Party at such time(s) and place(s) as designated by Secured Party, and (b) waives all notices, exemptions, compulsory disposition and redemption rights.

3. A default shall exist under any other security instrument held or insured by Secured Party and executed or assumed by Debtor on real or personal property. Likewise, default under any such other security instrument shall constitute default hereunder.

C. Proceeds from disposition of collateral shall be applied first on expenses of retaking, holding, preparing for sale, selling and the like and for payment of reasonable attorneys' fees and legal expenses incurred by Secured Party, second to the satisfaction of prior security interests or liens to the extent required by law and in accordance with current regulations of the Farmers Home Administration, third to the satisfaction of indebtedness secured hereby, fourth to the satisfaction of subordinate security interests to the extent required by law, fifth to any other obligations of Debtor owing to or insured by Secured Party, and sixth to Debtor. Any proceeds collected under insurance policies shall be applied first on advances and expenditures made by Secured Party, with interest, as hereinabove provided, second on the debt evidenced by the note, unless Secured Party consents in writing to their use by Debtor under Secured Party's direction for repair or replacement of the collateral, third on any other obligation of Debtor owing to or insured by Secured Party, and any balance shall be paid to Debtor unless otherwise provided in the insurance policies. Debtor will be liable for any deficiency owed to Secured Party after such disposition of proceeds of the collateral and insurance.

D. It is the intent of Debtor and Secured Party that to the extent permitted by law and for the purpose of this Agreement, no collateral covered hereby is or shall become realty or accessioned to other goods.

E. This Agreement is subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

F. If any provision of this Agreement is held invalid or unenforceable, it shall not affect any other provisions hereof, but this Agreement shall be construed as if it had never contained such invalid or unenforceable provision.

G. The rights and privileges of Secured Party under this Agreement shall inure to the benefit of its successors and assigns. All covenants, warranties, representations, and agreements of Debtor contained in this Agreement are joint and several and shall bind personal representatives, heirs, successors, and assigns.

H. If at any time it shall appear to Secured Party that Debtor may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Debtor will, upon Secured Party's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

I. Secured Party shall have the sole and exclusive rights as the secured party hereunder, including but not limited to the power to grant or issue any consent, release, subordination, continuation statement or termination statement, and no insured holder shall have any right, title, or interest in or to the security interest created by this Agreement or any benefits hereof.

J. SECURED PARTY HAS INFORMED DEBTOR THAT DISPOSAL OF PROPERTY COVERED BY THIS SECURITY AGREEMENT WITHOUT THE CONSENT OF SECURED PARTY, OR MAKING ANY FALSE STATEMENT IN THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT, MAY CONSTITUTE A VIOLATION OF FEDERAL CRIMINAL LAW.

Ralph B Bridges

(Debtor) Ralph B. Bridges (SEAL)

Feb. 2, 1972

(Date)

(Debtor) (SEAL)

GPO 825-878

Form FHA 440-25
(Rev. 5-25-66)

Position 1

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

EXHIBIT B

FINANCING STATEMENT

This statement is presented for filing pursuant to the Uniform Commercial Code. Please note filing information on the copy and return it to the Secured Party at its address shown below.

DEBTOR(S)	SECURED PARTY	For Filing Officer
Ralph B. Bridges (Name)	UNITED STATES OF AMERICA acting through FARMERS HOME ADMINISTRATION	File Number - 6897 Time - 9: A.M. Date - 2/2/72
Dawson, Ga. Rt 3	Dawson, Ga.	Eleanor L. Ferris Terrell County Clerk
31742 (Mailing Address)	(County Office Address) 31742	

1. This Financing Statement covers the following types or items of collateral, including proceeds and products thereof:

   (a) Crops, livestock, supplies, other farm products, farm equipment and inventory.

   (b) _____

2. Disposition of such collateral is not hereby authorized.

3. Crops covered hereby are growing or are to be grown on, and any goods covered hereby which are or are to become fixtures are or are to be affixed to, the following-described real estate:

Farm(s) or Other Real Estate • Owner	Approximate No. of Acres	County and State	Approximate Distance and Direction From a Named Town
Earl Gill	20.3	Terrell, Georgia	located in LL 203,182 in 11th LD 7 mi NW of Dawson Jones Mill Paved Road
Wilbur T. Gamble and Bobby Locke	242.8	Randolph, Georgia	located on LL 76,41,42,55,56,74 in GMD 1566 3½ mi S of Cuthbert on Public Work Camp road

Ralph B. Bridges
(Signature of Debtor)

Ralph B. Bridges

(Signature of Debtor)

UNITED STATES OF AMERICA

By Wallace L. Hinson

Title Wallace L. Hinson
County Supervisor
Farmers Home Administration

*Record owner if required by State law, otherwise reputed owner.

GPO 825-261

FHA 440-25 (Rev. 5-25-66)

11

Form FHA 440–25
(Rev. 5–25–66)

Position 1

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

FINANCING STATEMENT EXHIBIT C

This statement is presented for filing pursuant to the Uniform Commercial Code. Please note filing information on the copy and return it to the Secured Party at its address shown below.

DEBTOR(S)	SECURED PARTY	For Filing Officer
Ralph B. Bridges (Name)	UNITED STATES OF AMERICA acting through FARMERS HOME ADMINISTRATION	FILE NO. 7020
Dawson, Ga. Rt. 3 (Name)	Dawson, Ga. (County Office Address)	DATE: 2/2/72
31742 (Mailing Address)	31742	TIME: 10:30 A.M.
		Randolph County, Ga.
		Louise Sharley C
		Louise Sharley
		By Wynell B. Woodall Dep Clerk

1. This Financing Statement covers the following types or items of collateral, including proceeds and products thereof:

   (a) Crops, livestock, supplies, other farm products, farm equipment and inventory.

   (b) _____

2. Disposition of such collateral is not hereby authorized.

3. Crops covered hereby are growing or are to be grown on, and any goods covered hereby which are or are to become fixtures are or are to be affixed to, the following-described real estate:

Farm(s) or Other Real Estate * Owner	Approximate No. of Acres	County and State	Approximate Distance and Direction From a Named Town
Earl Gill	20.3	Terrell, Georgia	located in LL 203,182 in 11th LD 7 mi NW of Dawson on Jonas Mill Paved Road
Wilbur T. Gamble and Bobby Locke	242.8	Randolph, Georgia	located on LL 76,41,42,55,56,74 in GMD 1566 3½ mi S of Cuthbert on Public Work Camp road

Ralph B. Bridges (Signature of Debtor)

Ralph B. Bridges

(Signature of Debtor)

UNITED STATES OF AMERICA

By Wallace L. Hinson
Wallace L. Hinson
County Supervisor

Title
Farmers Home Administration

*Record owner if required by State law, otherwise reputed owner.

GPO 825-261

FHA 440–25 (Rev. 5–25–66)

12

IN THE
DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

[Caption Omitted]

DEFENSES OF ZAC A. CRITTENDEN, JR., DOING BUSINESS AS CRITTENDEN TRACTOR COMPANY, DEFENDANT

FIRST DEFENSE: The complaint fails to state a claim against defendant, or against the tractor to which reference is made in the complaint, upon which relief can be granted.

SECOND DEFENSE: Defendant admits the allegations contained in Paragraphs No. 1, 2 and 11 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraphs No. 3, 4, 5, 6, 8 and 9 of the complaint; denies the allegations contained in Paragraphs No. 7 and 10 of the complaint; and denies each and every other allegation contained in the complaint.

THIRD DEFENSE: Defendant holds a first and prior lien against the tractor belonging to Ralph B. Bridges, to-wit, Allis-Chalmers Diesel 21 Tractor, Serial No. 2417, because of work done and material furnished by defendant in repairing said tractor in the total amount of $2,151.28, a reasonable charge for said work done and material furnished. Upon completion of such repair work, defendant made several demands for payment upon the said Ralph B. Bridges, who failed and refused to pay said sum or any part thereof. Defendant is in possession of said tractor and has been in continuous possession of it since it was delivered to him by the said Bridges for the purpose of making the aforesaid repair work. On or about March 14, 1974, defendant com-

menced proceedings in Randolph County Superior Court to foreclose his mechanic's lien against said property by filing an affidavit of foreclosure. An execution issued on said affidavit and the sheriff of Randolph County levied said execution upon the aforesaid tractor. Said tractor is, and has been since March 14, 1974, in custodia legis.

The aforesaid debt of $2,151.28 owed by the said Ralph B. Bridges to defendant is true, due, just and unpaid.

At the time the aforesaid repair work, the doing of work and the furnishing of materials, upon said tractor, was performed by defendant, defendant had no notice or knowledge whatever of the claim of the United States against the said Bridges as set forth in its complaint in this case, or of any financing statement, security agreement or claim of the United States or any other party affecting or relating to said tractor or the said Bridges.

Defendant claims, and hereby asserts, a first and prior mechanics lien, as provided by the provisions of Section 67-2003, Ga. Code of 1933, as amended (Acts, Georgia General Assembly, 1972, page 415, et seq.), against the above described Allis-Chalmers Tractor which is now, and, since the doing of said repair work, has been in the possession of defendant.

FOURTH DEFENSE: Defendant hereby incorporates herein by reference the allegations set forth in his Third Defense above.

Defendant is entitled to pursue his remedies under Georgia law, to collect his claim of $2,151.28, against Ralph B. Bridges by foreclosing his mechanic's lien against the aforesaid tractor. Defendant is, and at all relevant times has been, in possession of said tractor. The United States has never perfected a security agreement or any security interest in said tractor by complying with the requirements of Georgia law.

Defendant demands trial by jury of the issues in the above stated case.

Address: /s/ _____
A'DELBERT BOWEN

111 Court Street
Cuthbert, Georgia 31740

HATCHER, STUBBS, LAND,
HOLLIS & ROTHSCHILD

Address: By /s/ _____
ALBERT W. STUBBS
Attorneys for Defendant

P.O. Box 2707
Columbus, Georgia 31902

CERTIFICATE OF SERVICE

Columbus, Georgia
May 20, 1975

I, ALBERT W. STUBBS, certify that I am of counsel for the defendant in the foregoing case, and that I have this day served the foregoing Defenses on the plaintiff by placing a copy thereof in a sealed wrapper, with postage prepaid, addressed to Edgar W. Ennis, Jr., Assistant U.S. Attorney, Post Office Box U, Macon, Georgia, 31202, the attorney for Plaintiff United States of America, and depositing it in a United States mailbox.

/s/ Albert W. Stubbs

IN THE
DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

[Caption Omitted]

MOTION OF DEFENDANT
FOR SUMMARY JUDGMENT

The defendant, ZAC A. CRITTENDEN, JR., doing business as CRITTENDEN TRACTOR COMPANY, by A'Delbert Bowen and Hatcher, Stubbs, Land, Hollis & Rothschild, his attorneys, hereby moves the Court to enter summary judgment in his favor on the ground that the pleadings and the affidavit of Zac A. Crittenden, Jr., which is hereto attached, show that there is no genuine issue as to any material fact and that defendant is entitled to such summary judgment as a matter of law.

/s/ A'Delbert Bowen
A'DELBERT BOWEN

HATCHER, STUBBS, LAND,
HOLLIS & ROTHSCHILD

By /s/ Albert W. Stubbs
Attorneys for Defendant
Zac A. Crittenden, Jr.,
doing business as
Crittenden Tractor Company

Address:

P.O. Box 2707
Columbus, Georgia 31902

IN THE
DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

[Caption Omitted]

AFFIDAVIT OF ZAC A. CRITTENDEN, JR.

GEORGIA, MUSCOGEE COUNTY.

Personally appeared before me, the undersigned attesting witness, ZAC A. CRITTENDEN, JR., who, first being duly sworn, deposes and on oath says as follows:

1.

I am the defendant in the above stated case. I have personal knowledge of the facts and statements set forth in this affidavit.

2.

I make this affidavit for use as evidence in support of my motion for summary judgment in the above stated case, to be submitted to Honorable J. Robert Elliott, United States District Judge, on briefs, pursuant to the local rule of Court.

3.

At all times herein related I was the owner and operator of a farm implement sales and service business located in the City of Shellman, Randolph County, Georgia, which business included the furnishing of materials, parts and labor for the repair of tractors.

4.

At all times herein related Ralph B. Bridges was a resident of Dawson, Terrell County, Georgia.

5.

During the period from September 26, 1972, to December 21, 1973, I performed repair jobs on a 1968 Model Allis-Chalmers Diesel 21 Tractor, Serial No. 2417, which the said Ralph B. Bridges brought to my place of business and asked me to repair.

6.

Attached hereto, marked Exhibit "A" and incorporated herein by reference as fully as if the same were set forth herein, is a certified copy of my shop record for the account of said Ralph B. Bridges from September 26, 1972, to date. This is a record kept by me in the regular course of my business. The entries on it are, in the regular course of my business, made at the time of the events to which they relate. Said entries are true and correct records of work done and material furnished by me in repairing said tractor on the dates indicated on said record. The charges shown on said record are reasonable charges for the respective items and have never been questioned by the said Bridges or anyone else.

7.

The balance owed me by Ralph B. Bridges on said tractor account is $2,151.28, which sum is true, due, just and unpaid. I have made numerous demands on the said Ralph B. Bridges for said sum, but he has failed and refused to pay it or any part of it. However, he has never denied or questioned the fact that he owes me this money.

8.

Prior to the time I levied on said tractor, as hereinafter set forth, I had no knowledge or notice whatever that the said Bridges owed the United States or the Farmers Home Administration, U.S. Department of Agriculture, any money or that there was a lien, claim, security interest, encumbrance, mortgage, bill of sale to secure debt or conditional sales contract against the above described tractor in favor of the United States,

the Farmers Home Administration, U.S. Department of Agriculture, or any other person or party.

9.

I have had continuous and exclusive possession of said tractor at my place of business ever since the date of the last item on my account, December 21, 1973, and still have exclusive possession of said tractor.

10.

On March 14, 1974, in order to foreclose my mechanic's lien against said tractor, I made an affidavit before the Clerk of the Superior Court of Randolph County, Georgia, and obtained an execution upon said tractor. On that date the Sheriff of said County levied said execution upon said tractor, but allowed said tractor to remain in my possession as bailee in order to avoid incurring storage costs. True and correct copies of said affidavit, said execution, and said levy are hereto attached, marked respectively Exhibits "B", "C", and "D", and incorporated herein by reference as fully as if the same were set forth herein.

11.

The first time I had any notice or knowledge of any claim or demand of the United States or the Farmers Home Administration, U.S. Department of Agriculture, against said Ralph B. Bridges, or of any lien, claim, encumbrance, security interest, mortgage, bill of sale to secure debt or conditional sales contract against said tractor in favor of anyone was after March 14, 1974, the date of the aforesaid levy, when a representative of the Farmers Home Administration, U.S. Department of Agriculture, demanded that I release said tractor to him.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on this the 27th day of May, 1975.

/s/ Zac A. Crittenden, Jr. (L.S.)
ZAC A. CRITTENDEN, JR.

Sworn to and subscribed before me:

/s/ [Illegible]
Notary Public, Randolph County, Georgia.

[SEAL]

Account No. _____ Sheet No. _____

NAME Ralph Bridges

ADDRESS Rt. 3 Terms

Dresden, Tn. Rating

Credit Limit

DATE 1972	ITEMS	FOLIO	✓	DEBITS	✓	CREDITS	DR. OR CR.	BALANCE
	Fwd.							2054
9-26	Gasket 3.36 Gas 24.03			38				2092
10-4	Paid					2092		000
11-29	Filter 2.06 Gas .06			212				212
12-5	filter 3.20 filter 19.71 filter 6.00 Gas .87			2978				3190
4-12	pump assy 3147.13 manifold 10.65 gskt .25 oil 53.67	13.97		4794				8157
16	coupling 6.81 nipples .50 Gas .22			153				8310
5-22	connings 6.28 clamp 18.15 manifold 13.75 manifold 7.00 manifold 13.5	2.70	51.30					
	regulator 54.00 oil pump screen 11.50 seal 7.83 seal 7.95 gskt 3.15	7.25						
	Hose fittings pin seal rod valve assy 27.98 4.28 .45 8.20 22.45 13.65 1.60	4.15						
	seals 2.10 bolt 1.47 kitchen assy 17.75 5.15 6.00 Sig fitting gasket 2.50	15.48						
	crankshaft grinding 25.00 labor 120.00			10331				122241
29	cover 22.45 gasket 8.63 lining kit .97 .18 .58 spring brush	22.51						
	pump 14.65 fitting 2.10 Gas 2.78			153				131776
6-19	gskt .30 ring 12.25 Sig 16.79 Skim .40 gskt .35 skim .40	2.75						
	valve assy 26.60 seal kit 4.15 spacers 4.55 seal .34	1.78	4.30	1262				142038
7-10	ring 1.18 lower 3.00 pin 2.07 roller .90 ring 78 lower	13.50	2.75					
	pin .45 pin 1.92 link .18 seal 4.24 gskt 3.02 pin .23		.70					
	Gas 4.08							
	13 Bag 28.93 bolt 8.16 clip .84 lower 6.12 shaft 66.97		5.27	5692				145730
	17 Cellar 26.06 shaft 8.81 bushing 3.36 bushing .42		1.47	1103				156733
12-21	valve 8.30 valve 11.80 ring 2.60 gskt 9.55 gskt 2.25 valve keys		4.80	4314				160747
	gskt 5.28 gskt 25.00 oil fitting 5.69 gskt 2.10 gskt 5.00		58.00					
	gskt .35 gskt 2.25 bolt .40 fitting 2.30 clamp .25 holder		19.90					
	ring 1.60 plastic rep 188.00 Antifreeze 4.00 Gas 10.74 labor		1.50	5431				216128

Certified: A true copy.
Eric A. Crittenden, Jr.

Exhibit A

AFFIDAVIT FOR FORECLOSURE OF LIEN ON PERSONAL PROPERTY

STATE OF GEORGIA

COUNTY OF RANDOLPH

There personally appeared before me, the undersigned officer of this State and County authorized to administer oaths, Zac A. Crittenden, Jr., who, after being duly sworn, says under oath that he is a mechanic and bailee for hire of labor and services, being the owner and operator of a farm implement and tractor repair and maintenance service under the style and name of Crittenden Tractor Company; that Ralph B. Bridges of Terrell County, Georgia, is indebted to him, as such mechanic and bailee, in the amount of $ 2,151.28 for repairs to an Allis-Chalmers Tractor, Model D21, Serial No. 2714, Mtr. No. 3D-04490; that said amount is due and unpaid, the same having become due as follows:

On completion of repairs to said tractor on December 21, 1973 $ 2,151.28

that a demand for payment of said amount has been made upon said debtor, and that said debtor refused, and still refuses, to pay the same; and that deponent, Zac A. Crittenden, Jr. has fully completed said contract of repair and bailment as aforesaid.

Wherefore, affiant now comes, within one year after said debt became due, and makes this affidavit for the purpose of foreclosing his lien upon the said Tractor, and prays that an execution may issue as provided for in the Code of Georgia, Section 67-2401.

Zac A. Crittenden, Jr.

Sworn to and subscribed before me,
this 14th day of March, 1974.

O'a Delbert Bower
Notary Public, Randolph County, Georgia
(N.P. SEAL)

Exhibit B

STATE OF GEORGIA

COUNTY OF RANDOLPH

TO ALL AND SINGULAR THE SHERIFFS OF SAID STATE AND THEIR LAWFUL DEPUTIES:

You are commanded that of the goods, chattels, lands and tenements of Ralph B. Bridges, and of certain personal property, the property of said Ralph B. Bridges, to-wit:

Allis-Chalmers Tractor, Model D21, Serial No. 2714, Mtr. No. 3D-04490

you make, or cause to be made, the sum of $ 2,151.28, principal, the further sum of $ 31.35, interest up to the 14th day of March, 1974, also the further sums of Thirty Two and 50/100 for costs; one Zac A. Crittenden, Jr. having this day made oath before the undersigned, for the purpose of foreclosing a lien on said property, deposing and saying under oath that said sums were due and owing to him from said Ralph B. Bridges.

Have you the several sums of money at the Superior Court of Randolph County, Georgia, to be held on the 6th day of May, 1973, to render to the said Zac A. Crittenden, Jr. the principal, interest, other amounts, if any, and costs as aforesaid. And have you then and there this writ.

Witness the Honorable W. I. Geer, Judge of said court, this 14th day of March, 1974.

s/ Wynelle P. Wood
Clerk, Superior Court of Randolph County, Ga.

(SEAL)

EXHIBIT C

IN THE SUPERIOR COURT

OF RANDOLPH COUNTY, GEORGIA

ZAC A. CRITTENDEN, JR.
D/B/A CRITTENDEN TRACTOR COMPANY

Plaintiff

V.

RALPH B. BRIDGES

Defendant

Mechanic's and Bailee's

Lien Foreclosure

GEORGIA, RANDOLPH COUNTY
CLERK'S OFFICE, SUPERIOR COURT
FILED IN OFFICE THIS
14 DAY OF March, 1974
CLERK

A. DELBERT BOWEN
ATTORNEY AT LAW
CUTHBERT, GEORGIA

GEORGIA, RANDOLPH COUNTY

I have this day levied the within fi. fa. on property of defendant in fi. fa. as follows:

Allis-Chalmers Tractor Model D21, Serioal No. 2714
Mtr. No. 3D-04490

This 14 day of March, 1974.

T. E. Faircloth, Sheriff
Randolph County, Georgia

EXHIBIT D

STATE OF GEORGIA

COUNTY OF RANDOLPH

I, Wynelle P. Wood, Clerk of the Superior Court of Randolph County, Georgia, do hereby certify that I have compared the attached and foregoing copies of the following, to-wit:

Affidavit of Zac A. Crittenden, Jr. for Foreclosure of Lien on Personal Property, dated March 14, 1974;

Fi. Fa. or Execution issued against property of Ralph B. Bridges, dated March 14, 1974;

Return of J. T. Faircloth, Deputy Sheriff of Randolph County, Georgia, upon the aforesaid Fi. Fa. or execution, said return being dated March 14, 1974;

with the original record thereof, now remaining in this office, and the same is a true and correct copy or transcript thereof and of the whole of such record.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 30th day of May, 1975.

[SEAL]

/s/ Wynelle P. Wood
Clerk
Superior Court of
Randolph County, Georgia

Columbus, Georgia

July 8, 1975

I, HOWELL HOLLIS, III, certify that I am counsel for the Defendant in the foregoing case, Zac A. Crittenden, Jr., doing business as Crittenden Tractor Company, and that I have this day served the foregoing Notice and Motion for Summary Judgment on the Plaintiff by placing a copy thereof in a sealed wrapper, with postage prepaid, addressed to the Honorable Edgar W. Ennis, Jr., Assistant U.S. Attorney, P.O. Box U, Macon, Georgia 31202, the attorney for the Plaintiff, and depositing it in a United States mailbox.

/s/ Howell Hollis, III

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

[Caption Omitted]

[Filed July 24, 1975]

PLAINTIFF'S INTERROGATORIES
TO DEFENDANT

TO: ZAC A. CRITTENDEN, JR., Defendant

The plaintiff requests that the defendant answer, under oath, in accordance with Rule 33 of the Federal Rules of Civil Procedure, the following interrogatories:

—1—

Attached to defendant's affidavit in support of his Motion for Summary Judgment was Exhibit A, a ledger or account sheet referred to in the affidavit as a "shop record". Entries begin on September 26, 1972 and end on December 21, 1973. During that period, was the tractor always in the defendant's possession?

—2—

(a) If the answer to question 1 is "yes", please explain why repairs continued to be made on the tractor over a period of over a year with no payments being made by Mr. Bridges.

(b) If the answer to question 1 is "no", please refer to this Exhibit A and provide us the dates Mr. Bridges delivered the tractor for repairs and the dates defendant returned the tractor to Mr. Bridges during the period covered by that Exhibit.

—3—

If the answer to question 1 is "no", did defendant ever file a claim of lien within 90 days after the work was

done in the office of the Clerk of the Superior Court of the county where the owner resides as provided in Section 67-2003, Ga. Code Ann.?

—4—

At the time defendant took action to levy on his lien, did he know that Ralph Bridges had filed his petition in bankruptcy in the United States District Court for the Middle District of Georgia on February 4, 1974?

RONALD T. KNIGHT
United States Attorney

By /s/ H. Palmer Carr, Jr.
Assistant United States Attorney

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States mail a copy of same in a properly addressed and franked envelope.

This 23 day of July, 1975.

/s/ H. Palmer Carr, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

[Caption Omitted]

DEFENDANT'S ANSWERS TO INTERROGATORIES

Now comes Zac A. Crittenden, Jr., defendant in the above styled action and answers the interrogatories served upon him on the 23rd day of July, 1975, pursuant to Rule 33 of the Federal Rules of Civil Procedure, and answers each question separately as follows:

1.

No, the tractor was not always in defendant's possession.

2.

(a) (Question not applicable)

(b) No records were kept as to the exact dates of delivery of the tractor to defendant for repair, nor exact dates the tractor was returned to Bridges following repairs. However, based on defendant's operating experience and custom, the following dates are a close estimate of the actual dates in relation to the dates shown on Exhibit A:

Date on Exh. A.	Date of Delivery To Defendant (On or About)	Date returned To Bridges (On or About)
11-29-72	11-29-72	11-29-72
4- 5-73	4- 5-73	4- 6-73
4-12-73 & 4-16-73	4-12-73 & 4-16-73	4-17-73
5-22-73	5-22-73	5-30-73
6-19-73	6-19-73	6-21-73
7-10-73	7-10-73	7-18-73

The subject tractor has been continuously in possession of the defendant since on or about December 21, 1973.

3.

No.

4.

No. Defendant had no knowledge whatsoever that Ralph Bridges had filed a petition in bankruptcy, nor that he intended to file such a petition.

This 21st day of August, 1975.

/s/ Zac A. Crittenden, Jr.
ZAC A. CRITTENDEN, JR.

Sworn to and subscribed before
me, this 21st day of August, 1975.

/s/ Sandra S. Haynes
Notary Public
Randolph Co., Ga.

[SEAL]

CERTIFICATE OF SERVICE

Columbus Georgia

September —, 1975

I, HOWELL HOLLIS III, certify that I am of counsel for the Defendant in the foregoing case, and that I have this day served the foregoing Answers to Interrogatories on the Plaintiff by placing a copy thereof in a sealed wrapper, with postage prepaid, addressed to Mr. Edgar W. Ennis, Jr., Assistant U.S. Attorney, P.O. Box U, Macon, Georgia 31202, the attorney for plaintiff United States of America, and depositing it in a United States mailbox.

/s/ Howell Hollis III
Of Counsel for Defendant

IN THE
DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

[Caption Omitted]

JUDGMENT

Defendant in this action having filed a motion for summary judgment on July 8, 1975, and the Court having rendered a decision on September 25, 1975 granting said motion and denying all relief requested by the Plaintiff, it is

ORDERED AND ADJUDGED that Defendant's motion for summary judgment is granted; that Plaintiff take nothing; and that all prayers of Plaintiff's Complaint are denied.

This 25th day of September, 1975.

WALTER F. DOYLE
Clerk of Court

By /s/ H. Okay Parker
Deputy Clerk

[SEAL]

JUDGMENT ENTERED OF RECORD
SEPTEMBER 25, 1975.

This is to certify that I have this day mailed a copy of this document to all attorneys of record & to all parties who are not represented by an attorney.

This 25 day of Sept., 1975.

WALTER F. DOYLE
Clerk

By /s/ H. Okay Parker
Deputy Clerk

SUPREME COURT OF THE UNITED STATES

No. 77-1644

UNITED STATES, PETITIONER

v.

ZAC A. CRITTENDEN, JR.
dba Crittenden Tractor Company

ORDER ALLOWING CERTIORARI. Filed October 2, 1978

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted. The case is set for oral argument in tandem with *United States* v. *Kimbell Foods, Inc.* No. 77-1359.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1978 276328 167